REMARKS

Status of the Claims

Claims 1-16 are pending in the application. Claim 13 is currently withdrawn from consideration. Claims 1-2 and 11-12 are currently amended. Claims 1-12 and 14-16 stand ready for further action on the merits. Reconsideration and allowance of all of the pending claims are respectfully requested.

New matter is not being added to the application by way of this amendment. The amendments to claims 1-2 and 11-12 are supported, *inter alia*, at page 6, lines 18-21 of the present specification. Accordingly, no new matter is added, and entry of this amendment is respectfully requested.

Rejection under 35 U.S.C. § 112, second paragraph

Claims 1-12 and 14-16 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Specifically, the Examiner asserts that it is not clear what is exactly encompassed by "derivative" of a tall oil fatty acid.

Applicant has amended claims 1-2 and 11-12 to clarify the scope of derivatives of a tall oil fatty acid. Thus, Applicant respectfully submits that the amendment overcomes the outstanding rejection and that the rejection be removed.

Rejection under 35 U.S.C. § 102

1) Claims 1, 3-12 and 14 are rejected under 35 U.S.C. § 102(b) as being anticipated by Bouillon et al. '880 (US 4,406,880).

2) Claims 1-12 and 14-16 are rejected under 35 U.S.C. § 102(b) as being anticipated by Boothroyd et al. '289 (US 5,250,289).

Applicant respectfully asserts that neither Bouillon et al. '880 nor Boothroyd et al. '289 disclose each and every element of independent claims 1, 11 and 12. Therefore, neither Bouillon et al. '880 nor Boothroyd et al. '289 anticipate or render obvious claims 1, 11, and 12.

The Present Invention

As amended, independent claims 1, 11 and 12 recite "tall oil fatty acids, or their mono-, di-, or triglycerides, and vegetable oils." The present invention is generally directed to skin care products containing these two components.

Distinctions between the present invention and the prior art

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." MPEP 2131, citing *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Bouillon et al. '880 and Boothroyd et al. '289 do not teach compositions which contain "tall oil fatty acids, or their mono-, di-, or triglycerides, and vegetable oils." Both references fail to disclose tall oil, its fatty acids, or other derivatives. Applicant has specifically reviewed claim 1 of Bouillon et al. '880 and Example 6 of Boothroyd et al. '289, but no disclosure regarding tall oil fatty acids could be found in these cited portions.

Applicant therefore respectfully submits that claims 1, 11 and 12, and those dependent thereon, clearly distinguish over Bouillon et al. '880 and Boothroyd et al. '289.

Rejections under 35 U.S.C. § 103

Claims 1-12 and 14-16 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Boothroyd et al. '289. Applicant respectfully traverses this rejection for the following reasons. Reconsideration and withdrawal of this rejection is respectfully requested.

Distinctions between the present invention and the prior art

As discussed above, Boothroyd et al. '289 do not disclose or suggest each and every aspect of independent claims 1, 11 and 12. The compositions of Boothroyd et al. '289 contain only a vegetable oil (sunflower oil), not a combination of tall oil or tall oil fatty acids and vegetable oil(s). Furthermore, one of ordinary skill in the art would not include tall oil or tall oil fatty acids to the sunscreen composition of Boothroyd et al. '289.

To establish a *prima facie* case of obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. (See MPEP 2143.03). As discussed above, the reference fails to teach or suggest all the claim limitations of independent claims 1, 11 and 12, and those dependent thereon. Therefore, a *prima facie* case of obviousness has not been established, and withdrawal of the instant rejection is respectfully requested.

Applicant therefore respectfully submits that claims 1, 11 and 12, and those dependent thereon, clearly distinguish over Boothroyd et al. '289.

Applicant respectfully submits that all of the outstanding issues in the present application are fully resolved by the present reply and that this application is in condition for allowance. An early reconsideration and Notice of Allowance are respectfully requested.

CONCLUSION

In view of the above amendment, applicant believes the pending application is in condition for allowance.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Chad M. Rink, Reg. No. 58,258, at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§ 1.16 or 1.147; particularly, extension of time fees.

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Respectfully submitted,

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